

WGA Regulatory Priorities

CERCLA 108b Hardrock Mining:

- EPA's Dec. 1, 2017 decision NOT to issue a federal financial assurance rule on the hardrock mining sector reiterates that the President is a champion for miners and mining jobs especially in rural America.
- EPA determined that the risks posed by modern hardrock mines were minimal because of existing state and federal financial assurance requirements, environmental regulations, and industry practices.
- The Western Governors Association agreed that the proposed rule, if finalized, would have been burdensome and duplicative as many states already have effective state financial assurance programs. This would have been done all with little to no additional benefit to the environment.

WOTUS:

- We recently finalized a rule to change the applicability date of the 2015 WOTUS rule to February 6, 2020.

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Clean Power Plan:

- EPA is holding public hearing on its October 2017 proposal to repeal the Clean Power Plan, including hearings in San Francisco and Wyoming.
- On December 28, 2017, EPA published an ANPRM on what a replacement rule should include. The comment period will close on February 26, 2018

Endangered Species Act Memorandum of Agreement:

- EPA is committed to meeting the statutory mandates under both FIFRA and ESA. The EPA aims to streamline the process to a point where it is protective of species, feasible within the agencies' resource constraints, and transparent to the public.
- On January 31, 2018, a Memorandum of Agreement was signed by EPA, DOI (includes FWS), and DOC (includes NMFS), establishing an Interagency Working Group.

EPA's FY2019 Budget:

- The President's FY19 budget request seeks more than \$6.1 billion for EPA – an almost \$2 billion reduction from current funding levels.

- The President's budget request would reduce State and Tribal Assistance Grants by more than \$573 million to \$2.9 billion. It also reduces funding for geographic programs, including eliminating funding for the Puget Sound program (almost \$28 million).

Gold King Mine

- EPA has dedicated over \$29 million since the release for a wide-variety of activities, including \$3.8 million to reimburse state and tribes costs incurred responding to the release and \$2 million for water quality monitoring.
- On September 9, 2016, EPA listed the Bonita Peak Mining District on the Superfund National Priorities List (NPL), which encompasses the Gold King Mine and has initiated the CERCLA remedial investigation/feasibility study process and is considering interim response actions at more than 25 sources within the Site.

Oil and Gas New Source Performance Standards (Quad O(a) Rule)

- EPA has been developing regulatory actions to address substantive issues with the Methane Rule, including a technical fix to address immediate compliance concerns and a policy proposal seeking information on whether it is appropriate to separately regulate Methane.
- EPA recently issued a proposal to withdraw the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry

PFAS

- The EPA directed a cross agency group to develop an action plan to address the needs of impacted communities. EPA is providing technical assistance to states and communities as we work together to address drinking water contamination from other PFAS.

Regional Haze

- EPA announced recently its decision to revisit certain aspects of the 2017 Regional Haze Rule revisions

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- In 2017 and 2018, EPA has taken several actions to approve SIPs and withdraw FIPs for the first implementation period for regional haze.

SIP/FIP Actions / Cooperative Federalism on Air Issues:

- On February 12, 2018, the Western Governors Association sent a letter to EPA's Office of Air and Radiation providing detail on the Governors' priorities for air quality policy in the

West, including the importance of the co-regulator relationship and need for early consultation.

- EPA has recently taken several actions in order to shift from Clean Air Act Federal Implementation Plans (FIPs) imposed by the previous Administration to State Implementation Plans (SIPs).

Water Infrastructure:

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Conduit Theory:

- A recent 9th Circuit Court of Appeals ruling to require underground injection control-regulated injection wells to obtain a CWA NPDES discharge permit highlights unique challenges in Hawaii's wastewater management and dependence upon cesspools
- Over the years, EPA has stated in a variety of contexts, but has not finalized through a rulemaking, that releases of pollutants to groundwater with a direct hydrologic connection to a jurisdictional surface water may require permits under the Clean Water Act.
- Issued ANPRM seeking comment whether releases to groundwater should be subject to CWA

Infrastructure Concerns

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